K

1944.

B. Rents, Hotel Rates + Lodging House Rates

**File No.** 44

Legal Department—

B **BRANCH**

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**Subject:—** Governors Bill No. VII of 1944

A Bill to regulate the Bombay Rents, Hotel Rates and Lodging House Rates (Control) in certain areas in the Province of Bombay

Bombay Act. No VII of 1944

Ex Page 7 1944

**File No.** B Rents. Hotel Rates

Gen. 194 e. and Lodging House Rates 1944

434-B

Office of the R.L.A.

The High Court judgment which is very long has been studied and the draft Bill has been completed in consultation with the Advocate General. The Advocate General will give a final approval to it on Monday. It will be shown to G.D. on Monday (or Tuesday) to enable G.D. to obtain Governor General's previous concurrence by telegram if possible. Pre-publication should be omitted and Governor General's concurrence obtained to such omission as well. The Bill will of course need reservation under section 107(2) of the Government of India Act, 1935. A(R) may be kept informed. The Rent Controllers and Collectors may be asked not to proceed with pending cases involving determination of matters under clauses 8.9 and 12 of the Rent Restriction Order till the new Act comes into force.

Id./..... 10/4/44
Remembrancer of Legal Affairs.

U.R. to G.D., No. 2699, dated the 10th April 1944.

SMR 16-7-56
4 Copies.

AY
3/17

Office of the R.L.A.

A copy of the judgment of the High Court in the matter of the Rent Restriction Order is herewith attached. The judgment necessitates certain changes in the draft Bill already shown to G.D. The original Draft Bill showing the changes in ink and a clean copy of the Bill finalised are also appended. G.D. may see the final draft for remarks, if any, with reference to its noting on pages 9 to 12 ante.

2 The subject-matter of the Bill falls under entries Nos. 1,2,21, 37, and 39 of List II and entries Nos, 4,8,10 and 16 of List III in the Seventh Schedule to the Government of India Act, 1935. The provisions of the Bill are repugnant to the Transfer of Property Act, 1882, the Contract Act, 1872 and Chapters VII and VIII of the Presidency Small Cause Courts Act, 1882, which are matters relating to entries Nos. 8,10,4 and 16 of the Concurrent Legislative List. It will therefore be necessary to reserve the Bill for the consideration of the Governor-General with reference to section 107(2)of the Government of India Act, 1935, and paragraph(2)of the Proclamation.

3 Unless G.D.proposes any changes in the Bill, it may please take immediate steps to obtain Government orders for enacting the Bill and arrange to obtain the previous concurrenc of the Governor-General,if possible, by telegram, Since it is advisable to dispense with the previous publication of the Bill G.D. should obtain the concurrence of the Governor.General for doing so. The matter is extremely urgent as suits for eviction are pouring in by the hundred and notices of eviction in still larger numbers. The position of tenants needs to be stablised with as much promptness as possible. The position may be explained to the Governor-General on the lines of the Statement attached to the Bill. The question of amending the Bombay Rent Restriction Act,1939, inorder that it may be brought in line with the present Bill will be taken up later.

Id./P.N.M. 13/4/44

Remembrancer of Legal Affairs.

U.R. to G.D., No. 157Confl. dated the 13th April 1944.

SHR 16-7-56
4 Copies.

Immediate.

No. 180-Confl.
Legal Department,
Bombay Castle, 27th April 1944.

From

P.N.Moos, Esquire, Bar-at-Law, I.C.S.,
Secretary to the Government of Bombay;

To

The Secretary to the Governor of Bombay.

Subject:- The Bombay Rents, Hotel, Rates and Lodging House Rates(Control)Bill, 1944.

Sir,

With reference to your Memorandum No. 201(107), dated the 21st April 1944 addressed to the General Departme on the above subject, I am directed to forward herewith a copy of the Bombay Rents, Hotel and Lodging House Rates( Control)Bill,1944, prepared by His Excellency the Governor of Bombay under paragraph(2)of the Procalamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935.

2 None of the Provisions of the Bill affects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935,or falls within the purview of clause(a),(b),(c)or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay.-

3 The subject-matter of the Bill falls under entri Nos. 1,2,21,37 and 39 of List II and entries Nos, 4,8,10 a 15 of List III in the Seventh Schedule to Government of India Act 1935. The provisions of the Bill are repugnnnt to the Transfer of Property Act, 1882, the Indian Contract Act, 1872 and Chapters VII and VIII of the Presidency Small Cause Courts Act, 1882, which are matters relating to entries No. 8,10,4 and 15 of the Concurrent Legislative List. It will therefore be necessary to reserve the Bill for the consideration of the Governor-General with reference to section 107(2)of the Government of India Act, 1935, and paragraph (2)of the Proclamation.

4 I also forward herewith six spare copies of the Bill out of which five copies are for transmission to the Secretary to the Governor-General(Public).

5 It is requested that His Excellency the Governor-General may be moved to give his assent to the Bill as soon as possible.

I have the honour to be,

Sir,

Your most obedient servant,

Id./P.N.M.

Secretary to the Government of Bombay,
Legal Department.

Through

The Secretary to the Government of Bombay,

Genral Department.

SMR 16-7-56
4 Copies.

Legal Department.

The Bombay R nts, Hotel Rates and Lodging House Rate(Control)Bill,1944, has beenforwarded separately through the General Department to the Secretary to the Governor for obtaining the assent of His Excellency the Governor-General to the Bill. This file is, therefore, returned to the General Department.

2 Simultaneoulsy with the publication of the Act in the Bombay Government it is necessary to cancel the three Orders in question, namely:-

(1)The Bombay Rent Restriction Order, 1942;

(2) The Bombay Storage Accommodatiob Rent Restrict--on Order, 1942; and

(3) The Hotels and Lodging Houses Control Order, 19 -42.

The requisite draft notification in this behalf is sent herewith. It should be issued simultaneoulsy with the publication of the new Act.

3 Attention of General Department is invited to this Department Circulars, No. 7627 dated the 29th August 1941 and No. 403 dated the 18th January 1944. It is requested to consider the question of applying the Act to the partially excluded areas in the Province.

Id./..... 2/4

for Secretary to Government,
Legal Department.

U.R. to G.D., No. 3196, dated the 1st May 1944.

SMR 16-7-56
4 Copies.

Notification.
General Department,

Bombay Castle, 1944.

No. :- In exercise of the powers conferred by subrule(2)of rule 81 of the Defence of India Rules the Government of Bombay is pleased to cancel the following Orders, namely:-

(1)The Bombay Rent Restriction Order, 1942;

(2)The Bombay Storage Accommodation Rent Restriction Order, 1942; and

(3) The Hotels and Lodging Houses Control Order, 1942.

By order of the Governor of Bombay,

Secretary to Government.

SMR 16-7-56
[redacted] 4 Copies.

No. 201(107)
Office of the Governor's Secretary,
Government House,
Bombay, 13th May 1944.

From

D.Symington, Esquire, CIE.ICS.
Secretary to the Governor of Bombay,

To

The Secretary to Government,
Legal Department,

Subject: The Bombay Rents, Hotel Rates and Lodging House Rates(Control)Bill, 1944.

Sir,

In continuation of my letter No. 201(107), dated 10th May 1944, communicating the assent of His Excellency the Governor-General to the Bombay Rents, Hotel Rates and Lodging House Rates(Control),Bill, 1944, I am directed to forward herewith the copy of the said Bill with His Excellency the Governor-General's assent signified thereon.

Your obedient servant,

Sd./.....

For Secretary to the Governor of Bombay.

SMR 16-7-56
4 Copies.

Acts.

Publication of the Bombay Rents, Hotel Rates and Lodging House Rates(Control) Act, 1944.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No. 3453.

Bombay Castle, 12th May 1944.

Letter to the Secretary to the Governor, No. 180-Confl., dated the 27th April 1944.

Letter from the Secretary to the Governor, No. 201(107), dated the 10th May 1944.

"With reference to your letter No. 180/Confl. dated 27th April 1944, I am directed to inform you that intimation has been received from the Secretary to the Governor-General(public)that His Excellency the Governor-General has assented to the Bombay Rents, Hotel Rates and Lodging House Rates(Control)Bill, 1944".

RESOLUTION . The law should be published as Bombay Act No. VII of 1944 in the Bombay Government Gazette Dated the 12th May 1944.

2 The Act should be translated into Marathi Gujarati, Kannada and Hindustani(In Urdu and Devanagari scripts) and the translations should be published in the Bombay Gazette.

3 A copy of the Act should be forwarded to the General Department.

By order of the Governor of Bombay,

Sd./K.M.Chitnvis

Sd./P.N.Moos,
For(Secretary to Government)

To

The Manager, Government Central Press, Bombay(With a copy of the Act and with a request that 15 gazette copies of the Act may be forwarded to the Legal Department
Etc.

SMR 16-7-56, 4 Copies.

Bom. Act No VII

GOVERNOR'S BILL No. VII OF 1944.

*A Bill to regulate the supply of accommodation whether residential or non-residential, furnished or unfurnished and with or without board, in certain areas in the Province of Bombay.*

WHEREAS it is expedient to regulate the supply of accommodation whether residential or non-residential, furnished or unfurnished and with or without board, in certain areas in the Province of Bombay; and in particular to provide for controlling the rents or rates chargeable for such supply of accommodation and for preventing in certain cases eviction from the accommodation supplied; and for this purpose to enact with certain modifications the provisions contained in the Bombay Rent Restriction Order, 1942, the Bombay Storage Accommodation Rent Restriction Order, 1942, and the Hotels and Lodging Houses Control Order, 1942;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature

26 Geo. 5, c. 2.

Mo-III Bk H 100—1

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

## PART I.

### *Preliminary.*

Short title.

**1.** This Act may be called the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944.

Commencement and application.

**2.** (*1*) Part II shall be deemed to have come into operation in the areas specified in column 1 of Schedule A from the dates specified in column 2 of Schedule A :

Provided that in its application in respect of the periods specified in column 1 of Schedule B, it shall be read subject to the modifications specified in column 2 of Schedule B.

(*2*) Part III shall be deemed to have come into operation in the City of Bombay on the 1st day of May 1942 :

Provided that in its application in respect of the periods specified in column 1 of Schedule C, it shall be read subject to the modifications specified in column 2 of Schedule C.

(*3*) Part IV shall be deemed to have come into operation in the areas specified in column 1 of Schedule D on the dates specified in column 2 of Schedule D.

(*4*) For the avoidance of doubt it is hereby declared that the retrospective operation of Parts II, III, and IV provided for in this section shall also extend to all proceedings pending at the date of publication of this Act either in the court of first instance or in a court of appeal.

(*5*) Part II, Part III or Part IV, or any one or more of them, shall come into operation in such other area where it has not come into operation and on such date as the Provincial Government may by notification in the *Official Gazette* direct.

## PART II.

### *Residential and other premises.*

Application of the Part.

**3.** The provisions of this Part shall apply—

(*a*) to premises the standard rent of which exceeds Rs. 80 per mensem in areas to which the Bombay Rent Restriction Act, 1939, is applicable, and Bom. XVI of 1939.

(*b*) to all premises in other areas.

Definitions.

**4.** In this Part, unless there is anything repugnant in the subject or context—

(*1*) "Controller" means the person appointed as such by the Government of Bombay for the purposes of this Part ;

(*2*) "landlord" means any person for the time being entitled to receive rent in respect of any premises whether on his own account or on account or on behalf or for the benefit of any other person or as a trustee, guardian or receiver for any other person. It includes a tenant who sub-lets any premises and every person from time to time deriving title under a landlord ;

(3) "premises" means in the City of Bombay, Poona City Municipal area, Poona Suburban Municipal area, Poona Cantonment area and the Aundh Road area under the jurisdiction of the Bapodi Gram Panchayat near Kirkee, Poona, any building or part of a building let for any purpose other than storage of goods and elsewhere any building or part of a building let for the purpose of residence and includes—

(a) the garden, grounds and out-houses, if any, appurtenant to such building or part of a building, and

(b) any furniture supplied by the landlord for use in such building or part of a building;

(4) "standard rent" in relation to any premises means—

(a) the rent at which the premises were let on the first day of September 1940, or

(b) where they were not let on the first day of September 1940, the rent at which they were last let before that date, or

(c) where they are first let after the first day of September 1940, the rent at which they are first let, or

(d) in any of the cases specified in section 13 the rent fixed by the Controller;

(5) "tenant" means any person by whom or on whose account rent is payable for any premises, and includes every person from time to time deriving title under a tenant.

Restriction on raising rent.

**5.** Subject to the provisions of this Part, where the rent of any premises is increased, whether before or after the 22nd April 1942 above the standard rent, the amount by which the rent payable exceeds the amount which would have been payable, had the increase not been made, shall, notwithstanding any agreement to the contrary, be irrecoverable:

Provided that nothing in this section shall apply—

(a) to any rent which accrued due before the 22nd April 1942;

(b) to any rent which accrued due after the 22nd April 1942 but before the 15th February 1943 in respect of premises the standard rent of which exceeds Rs. 250 per mensem;

(c) to any rent which accrued due after the 22nd April 1942 but before the 16th June 1943 in respect of premises in the City of Bombay let for any purpose other than residence;

(d) to any rent which accrued due after the 22nd April 1942 but before 21st July 1943 in respect of premises in the Poona City Municipal area, Poona Suburban Municipal area, Poona Cantonment area and the Aundh Road area under the jurisdiction of the Bapodi Gram Panchayat near Kirkee, Poona, let for any purpose other than residence;

(e) to any periodical increment of rent accruing due under any agreement entered into before the first day of September 1940; and

(*f*) to rent payable under any lease entered into before the first day of September 1940, which has not expired on the said date.

Cases where rent to be deemed and not to be deemed to be increased.

**6.** (*1*) Where, as the result of any alteration in the terms of the tenancy, the terms on which any premises are held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased for the purposes of this Part, whether the sum payable as rent is increased or not.

(*2*) Where, as the result of any alteration of the terms of the tenancy, the terms on which any premises are held are not on the whole less favourable to the tenant than the previous terms, the rent shall not be deemed to be increased for the purposes of this Part, whether the sum payable as rent is increased or not.

Increase of rent on account of payment of rate excepted.

**7.** Where a landlord pays any municipal rate, cess or tax in respect of any premises, any increase of the rent thereof shall not be deemed to be an increase for the purposes of section 5 if the amount of the increase does not exceed any increase in the amount for the time being payable by the landlord in respect of such rate, cess or tax over the amount paid in the period of assessment which included the first day of September 1940.

Fine or premium not to be charged for grant, renewal or continuance of tenancy.

**8.** (*1*) No landlord shall in consideration of the grant, renewal or continuance of a tenancy of any premises require the payment of any fine, premium or any other like sum in addition to the rent.

(*2*) Where any such payment has been made the amount shall be recoverable by the tenant by whom it was made from the landlord, and may, without prejudice to any other method of recovery, be deducted from any rent payable by him to the landlord.

(*3*) Nothing in this section shall apply to any payment under any agreement entered into before the first day of September 1940.

(*4*) Any landlord who receives directly or through an agent any fine, premium or other like sum in addition to rent in contravention of sub-section (*1*) shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

No ejectment ordinarily to be made if rent paid at allowable rate.

**9.** (*1*) The landlord shall not be entitled to the recovery of possession of any premises so long as the tenant pays, or is ready and willing to pay, rent to the full extent allowable by this Part and performs the other conditions of the tenancy :

Provided that nothing in this section shall apply where the landlord has obtained a certificate from the Controller certifying that the tenant has committed any act contrary to the provisions of clause (*o*) or clause (*p*) of section 108 of the Transfer of Property Act, 1882, or has been guilty of conduct which is a nuisance or an annoyance to any adjoining

IV of 1882.

or neighbouring occupiers or that the rent charged to a sub-tenant is in excess of the standard rent, or that the premises are reasonably and *bona fide* required by the landlord either for his own occupation or for the occupation of any person for whose benefit the premises are held or for any other cause which may be deemed satisfactory by the Controller.

(2) Where an order for the recovery of possession has been made in favour of a landlord on or after the 6th day of April 1944 but not executed before the date of publication of this Act, the Court by which the order was made may, if it is of opinion that the order would not have been made if this Part had been in operation at the date of the making of the order, rescind or vary the order in such manner as the Court may think fit for the purpose of giving effect to this Part.

Sub-letting.

**10.** Notwithstanding anything to the contrary in any law for the time being in force, a tenant may sub-let any portion of his premises to a sub-tenant, provided he forthwith intimates in writing to his landlord the fact of his having so sub-let the premises and also the rent at which they have been sub-let.

Consequences of non-user or non-occupation of premises of which possession has been restored to landlord.

**11.** (*1*) When any certificate for the recovery of possession of any premises has been obtained under the proviso to sub-section (*1*) of section 9, on the ground that the premises are reasonably and *bona fide* required by the landlord either for his own occupation or for the occupation of any person for whose benefit the premises are held and the premises are not occupied by the landlord or the aforesaid person within fifteen days of the date when possession has been obtained or are re-let within three months of the said date to any person other than the original tenant, the Controller may, on an application of the original tenant made within six months of such date direct the landlord to place him in occupation of the premises on the original terms and conditions. The Controller may take or cause to be taken such steps and use or cause to be used such force as may in his opinion be reasonably necessary for securing compliance with or for preventing or rectifying any contravention of any direction given under this sub-section and for the avoidance of doubt it is hereby declared that the power to take steps under this sub-section includes the power to enter upon the property.

(*2*) If in the opinion of the Controller a certificate has been obtained under the proviso to sub-section (*1*) of section 9 even though the premises were not reasonably and *bona fide* required by the landlord for the aforesaid purposes, the Controller may direct the landlord to pay the tenant such compensation as the Controller may think fit. The Controller may recover as an arrear of land revenue any amount payable but not paid by the landlord as directed in this sub-section, and the Controller shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890.

Rent which should not have been paid may be recovered.

**12.** (*1*) Where any sum has been paid on account of rent, being a sum which is by reason of the provisions of this Part irrecoverable, such sum shall, at any time within a period of six months after the date of the payment, be recoverable by the tenant by whom it was paid from the landlord who received the payment or his legal representative, and may, without prejudice to any other method of recovery, be deducted from any rent payable within the said period by the tenant to the landlord.

(*2*) In this section the expression "legal representative" has the same meaning as in the Code of Civil Procedure, 1908, and includes also, in the case of joint family property, the joint family of which the deceased person was a member. V of 1908.

Controller may determine standard rent in certain cases.

**13.** In any of the following cases the Controller may fix the standard rent at such amount as, having regard to the provisions of this Part, and the circumstances of the case, he deems just—

(*a*) where, any premises are first let after the first day of September 1940 and the rent at which they are first let is in the opinion of the Controller excessive;

(*b*) where, by reason of any premises having been let at one time as a whole and at another time in parts, or by reason of a tenant having sub-let a part of any premises let to him, or for any other reason, any difficulty arises in giving effect to this Part; or

(*c*) where, in the case of any premises let furnished, it is necessary to distinguish, for the purpose of giving effect to this Part, the amount payable as rent from the amount payable as hire of furniture.

Appeal.

**14.** (*1*) Any person aggrieved by an order passed by the Controller, under the provisions of this Part (including an order granting a certificate under the proviso to sub-section (*1*) of section 9) may, within fifteen days from the date on which the order is communicated to him, present an appeal in writing to the Collector.

(*2*) The Collector shall then call for the record of the Controller and after examining the record and after making such further inquiry as he thinks fit, either personally or through the Controller, shall decide the appeal.

(*3*) The decision of the Collector, and subject only to such decision, the order of the Controller shall, for the purposes of this Part, be final; and no Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Part required to be settled, decided or dealt with by the Controller and Collector.

Validation of appointments and acts.

**15.** (*1*) Every person from time to time appointed "Controller" under the Bombay Rent Restriction Order, 1942, shall be deemed to have been so appointed under and for the purposes of this Part.

(2) Every order passed or act done by such Controller or by the Collector acting or purporting to act in the exercise of the powers under the said Order shall be deemed to have been passed or done under this Part.

## PART III.

### *Storage Accommodation.*

Application of the Part.

**16.** The provisions of this Part shall apply—

(*a*) to premises used or intended to be used for the storage of goods and for ancillary purposes and the standard rent of which exceeds Rs. 80 per mensem in areas to which the Bombay Rent Restriction Act, 1939, is applicable, and

Bom. XVI of 1939.

(*b*) to all premises used or intended to be used for the storage of goods and for ancillary purposes in other areas.

Definitions.

**17.** In this Part, unless there is anything repugnant in the subject or context—

(*1*) "Controller" means the person appointed as such by the Government of Bombay for the purposes of this Part;

(*2*) "landlord" means any person for the time being entitled to receive rent in respect of any premises whether on his own account or on account or on behalf or for the benefit of any other person or as a trustee, guardian or receiver for any other person. It includes a tenant who sub-lets any premises and every person from time to time deriving title under a landlord;

(*3*) "premises" means any building or part of a building let or intended to be let for the purpose of storage of goods and includes—

(*a*) the grounds and out-houses, if any, appurtenant to such building or part of a building, and

(*b*) any furniture or equipment supplied by the landlord for use in such building or part of a building;

(*4*) "rent" includes payment for hire of storage accommodation whether calculated with reference to floor area or cubic contents of the space hired, or with reference to specific goods or packages stored or in any other way whatsoever;

(*5*) "standard rent" in relation to any premises means—

(*a*) the rent at which the premises were let on the first day of September 1940, or

(*b*) where they were not let on the first day of September 1940, the rent at which they were last let before that date, or

(*c*) where they are first let after the first day of September 1940, the rent at which they are first let, or

(*d*) in any of the cases specified in section 25 the rent fixed by the Controller ;

(*6*) " tenant " means any person by whom or on whose account rent is payable for any premises, and includes every person from time to time deriving title under a tenant.

Restriction on raising rent.

**18.** (*1*) Subject to the provisions of this Part, where the rent of any premises is increased, whether before or after the 1st May 1942 above the standard rent, the amount by which the rent payable exceeds the amount which would have been payable had the increase not been made, shall, notwithstanding any agreement to the contrary, be irrecoverable :

Provided that nothing in this section shall apply—

(*a*) to any rent which accrued due before the 1st May 1942,

(*b*) to any periodical increment of rent accruing due under any agreement entered into before the first day of September 1940, and

(*c*) to rent payable under any lease entered into before the first day of September 1940, which has not expired on the said date.

(*2*) For the purposes of this section the rent shall be deemed to have accrued from day to day.

Cases where rent to be deemed and not to be deemed to be increased.

**19.** (*1*) Where, as the result of any alteration in the terms of the tenancy, the terms on which any premises are held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased for the purposes of this Part, whether the sum payable as rent is increased or not.

(*2*) Where, as the result of any alteration of the terms of the tenancy, the terms on which any premises are held are not on the whole less favourable to the tenant than the previous terms, the rent shall not be deemed to be increased for the purposes of this Part, whether the sum payable as rent is increased or not.

Increase of rent on account of payment of rate excepted.

**20.** Where a landlord pays any municipal rate, cess or tax in respect of any premises, any increase of the rent thereof shall not be deemed to be an increase for the purposes of section 18, if the amount of the increase does not exceed any increase in the amount for the time being payable by the landlord in respect of such rate, cess or tax over the amount paid in the period of assessment which included the first day of September 1940.

Fine or premium not to be charged for grant,

**21.** (*1*) No landlord shall in consideration of the grant, renewal or continuance of a tenancy of any premises require the payment of any fine, premium or any other like sum in addition to the rent.

(2) Where any such payment has been made after the 1st May 1942, the amount shall be recoverable by the tenant by whom it was made from the landlord, and may, without prejudice to any other method of recovery, be deducted from any rent payable by him to the landlord. Renewal or continuance of tenancy.

(3) Nothing in this section shall apply to any payment under any agreement entered into before the first day of September 1940.

(4) Any landlord who receives directly or through an agent any fine, premium or other like sum in addition to rent in contravention of sub-section (1) shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

22. (1) The landlord shall not be entitled to the recovery of possession of any premises so long as the tenant pays, or is ready and willing to pay, rent to the full extent allowable by this Part and performs the other conditions of the tenancy : No ejectment ordinarily to be made if rent paid at allowable rate.

Provided that nothing in this section shall apply where the landlord has obtained a certificate from the Controller certifying that the tenant has committed any act contrary to the provisions of clause (*o*) or clause (*p*) of section 108 of the Transfer of Property Act, 1882, or has been guilty of conduct which is a nuisance or an annoyance to any adjoining or neighbouring occupiers, or that the premises are reasonably and *bona fide* required by the landlord either for his own occupation or for the occupation of any person for whose benefit the premises are held or for any other cause which may be deemed satisfactory by the Controller. IV of 1882.

(2) Where an order for the recovery of possession has been made in favour of a landlord on or after the 6th day of April 1944 but not executed before the date of publication of this Act, the Court by which the order was made may, if it is of opinion that the order would not have been made if this Part had been in operation at the date of the making of the order, rescind or vary the order in such manner as the Court may think fit for the purpose of giving effect to this Part.

23. (1) When any certificate for the recovery of possession of any premises has been obtained under the proviso to sub-section (1) of section 22, on the ground that the premises are reasonably and *bona fide* required by the landlord either for his own occupation or for the occupation of any person for whose benefit the premises are held and the premises are not occupied by the aforesaid person within fifteen days of the date when possession has been obtained or are re-let within three months of the said date to any person other than the original tenant, the Controller may, on an application of the original tenant made within six months of such date, direct the landlord to place him in occupation of the premises on the original terms and conditions. The Controller may take or cause to be taken such steps and use or cause to be used such force as may in his opinion be reasonably necessary for securing compliance Consequences of non-user or non-occupation of premises of which possession has been restored to landlord.

with or for preventing or rectifying any contravention of any direction given under this sub-section and for the avoidance of doubt it is hereby declared that the power to take steps under this sub-section includes the power to enter upon the property.

(2) If in the opinion of the Controller a certificate has been obtained under the proviso to sub-section (1) of section 22 even though the premises were not reasonably and *bona fide* required by the landlord for the aforesaid purposes, the Controller may direct the landlord to pay the tenant such compensation as the Controller may think fit. The Controller may recover as an arrear of land revenue any amount payable but not paid by the landlord as directed in this sub-section, and the Controller shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890. I of 1890.

Rent which should not have been paid may be recovered.

**24.** (1) Where any sum has been paid on account of rent, being a sum which is by reason of the provisions of this Part irrecoverable, such sum shall, at any time within a period of six months after the date of the payment, be recoverable by the tenant by whom it was paid from the landlord who received the payment or his legal representative, and may, without prejudice to any other method of recovery, be deducted from any rent payable within the said period by the tenant to the landlord.

(2) In this section the expression "legal representative" has the same meaning as in the Code of Civil Procedure, 1908, and includes also, in the case of joint family property, the joint family of which the deceased person was a member. V of 1908.

Controller may determine standard rent in certain cases.

**25.** In any of the following cases the Controller may fix the standard rent at such amount as, having regard to the provisions of this Part, and the circumstances of the case, he deems just—

(a) where, any premises are first let after the first day of September 1940 and rent at which they are first let is in the opinion of the Controller excessive;

(b) where, by reason of any premises having been let at one time as a whole and at another time in parts, or by reason of a tenant having sub-let a part of any premises let to him, or for any other reason, any difficulty arises in giving effect to this Part; or

(c) where, in the case of any premises let with furniture or equipment it is necessary to distinguish, for the purpose of giving effect to this Part, the amount payable as rent from the amount payable as hire of furniture or equipment.

Appeal.

**26.** (1) Any person aggrieved by an order passed by the Controller under the provisions of this Part (including an order granting a certificate under the proviso to sub-section (1) of section 22) may, within fifteen days from the date on which the order is communicated to him, present an appeal in writing to the Collector.

(2) The Collector shall then call for the record of the Controller and after examining the record and after making such further inquiry as he thinks fit, either personally or through the Controller, shall decide the appeal.

(3) The decision of the Collector, and subject only to such decision, the order of the Controller shall for the purposes of this Part be final; and no Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Part required to be settled, decided or dealt with by the Controller and Collector.

Validation of appointments and acts.

**27.** (1) Every person from time to time appointed "Controller" under the Bombay Storage Accommodation Rent Restriction Order, 1942, shall be deemed to have been appointed under and for the purposes of this Part.

(2) Every order passed or act done by such Controller or by the Collector acting or purporting to act in the exercise of the powers under the said Order shall be deemed to have been passed or done under this Part.

## PART IV.

### *Hotels and Lodging Houses.*

Definitions.

**28.** In this Part, unless there is anything repugnant in the subject or context—

(1) "Controller" means a person appointed as such by the Government of Bombay for the purposes of this Part;

(2) "manager of an hotel" includes any person in charge of the management of an hotel;

(3) "owner of a lodging house" includes the person who receives or is entitled to receive, whether on his own account, or on behalf of himself and others, or as an agent or trustee, payment from a lodger on account of board, lodging or any other service.

Controller to hold inquiry.

**29.** (1) When, on a written complaint or otherwise, the Controller has reason to believe that the charges made for board, lodging or any other service provided in any hotel or lodging house within the local limits to which this Part applies are excessive, he shall hold a summary inquiry and record a finding.

(2) For the purposes of an inquiry under sub-section (1), the Controller may require the manager of an hotel or the owner of a lodging house to produce before the Controller any book of account, document, or other information relating to the hotel or lodging house concerned which he may consider necessary, and may authorise any person subordinate to him to enter upon any premises to which the inquiry relates.

Determination of fair rate.

**30.** If, on a consideration of all the circumstances of the case, including any amount paid or to be paid by any lodger in the hotel or lodging house by way of premium or any other like sum in addition to the charges, the Controller finds that the charges are excessive, he shall determine the fair rate to be charged for board, lodging and any other service provided in the hotel or lodging house.

Considerations in determining fair rate.

**31.** In determining the fair rate under section 30, the Controller shall have due regard to the prevailing rates of charges for the same or similar accommodation, board and service during the twelve months immediately preceding the 1st September 1940 and to any general increase in the cost of living after that date.

Charges not recoverable in excess of fair rate.

**32.** (*1*) When the Controller has determined the fair rate of charges—

(*a*) the manager of the hotel, or owner of the lodging house, as the case may be, shall not charge any amount in excess of such fair rate;

(*b*) any agreement for the payment of any charges in excess of such fair rate shall be void in respect of such excess and shall be construed as if it were an agreement for payment of the said fair rate;

(*c*) any sum in excess of such fair rate paid in respect of board, lodging or service provided after the 16th May 1942 shall be refunded to the lodger or at the option of the lodger otherwise adjusted.

(*2*) Nothing in sub-section (*1*) shall debar the Controller, in determining the fair rate of charges, from directing that his order shall have effect from a specified date being a date after the 16th May 1942, and that the manager of the hotel or owner of the lodging house, as the case may be, shall not be liable to refund any sum paid in excess of such fair rate before that date.

Notice of fair rate to be displayed.

**33.** Where under section 30 the Controller has determined the fair rate, he shall direct that a notice of the fair rate shall be displayed in a conspicuous manner in the hotel or lodging house concerned and in the accommodation to which the fair rate appertains.

Prevention of unreasonable eviction.

**34.** (*1*) A lodger in respect of whose accommodation a complaint has been made under section 29 or an order has been made under section 30 shall be entitled to retain possession of the accommodation provided he pays charges according to the fair rate determined under section 30 and performs the other conditions of his agreement.

(*2*) Nothing in sub-section (*1*) shall apply where the manager of an hotel or owner of a lodging house has obtained a certificate from the Controller certifying that—

(*a*) the lodger has been guilty of conduct which is a nuisance or an annoyance to any adjoining or neighbouring occupiers; or

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(*b*) the accommodation is reasonably and *bona fide* required by the owner of the hotel or the lodging house, as the case may be, either for his own occupation or for the occupation of any person for whose benefit the accommodation is held, or for any other cause which may be deemed satisfactory by the Controller.

(*3*) Where an order for the recovery of possession has been made in favour of a manager of an hotel or owner of a lodging house on or after the 6th day of April 1944, but not executed before the date of publication of this Act, the Court by which the order was made may, if it is of opinion that the order would not have been made if this Part had been in operation at the date of the making of the order, rescind or vary the order in such manner as the Court may think fit for the purpose of giving effect to this Part.

Appeal.

**35.** (*1*) Any person aggrieved by an order of the Controller may, within fifteen days from the date on which the order is communicated to him, present an appeal in writing to the Collector.

(*2*) The Collector shall then call for the record of the Controller, and, after examining the record and after making such further inquiry as he thinks fit, either personally or through the Controller, shall decide the appeal.

(*3*) The decision of the Collector, and subject only to such decision, the order of the Controller, shall for purposes of this Part be final, and no Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Part required to be settled, decided or dealt with by the Controller and Collector.

Collector's power to exempt any lodging houses.

**36.** Notwithstanding anything contained in this Part, the Collector may exempt any hotel or lodging house, or any class of hotels or lodging houses from the provisions of this Part, and vary or cancel such exemption.

Validation of appointments and acts.

**37.** (*1*) Every person from time to time appointed "Controller" under the Bombay Hotels and Lodging Houses Control Order, 1942, shall be deemed to have been appointed under and for the purposes of this Part.

(*2*) Every order passed or act done by such Controller or by the Collector acting or purporting to act in the exercise of the powers under the said Order shall be deemed to have been passed or done under this Part.

## PART V.

### *Miscellaneous.*

Review.

**38.** The Controller or the Collector may, review any order passed by him under any Part of this Act, and the provisions of Order 47 in the First Schedule to the Code of Civil Procedure, 1908, shall as far as may be apply to such review.

V of 1908.

Power to make rules.

**39.** The Provincial Government may by a notification in the Official Gazette make rules for the purpose of carrying out the provisions of this Act.

SCHEDULE A.

| Area. | Date. 2. |
|---|---|
| City of Bombay .. .. | 22nd April 1942. |
| Poona City Municipal area, Poona Suburban Municipal area and Ahmedabad Municipal area. | 13th June 1942. |
| Ahmedabad Cantonment area .. | 20th July 1942. |
| Poona Cantonment area .. | 27th November 1942. |
| Aundh Road area which is under the jurisdiction of the Bapodi Gram Panchayat near Kirkee, Poona. | 16th April 1943. |
| Municipal areas in the Bombay Suburban District. | 21st April 1943. |
| The rest of the Bombay Suburban District .. | 12th October 1943. |

SCHEDULE B.

| Period. 1 | Modifications. 2 |
|---|---|
| 1. (*i*) 22nd April 1942 to 19th July 1942, both inclusive. | For section 3 *substitute* the following :— "3. The provisions of this Part shall apply to premises the standard rent of which exceeds rupees eighty per month but does not exceed rupees two hundred and fifty per month." |
| (*ii*) 20th July 1942 to 14th February 1943, both inclusive. | For section 3 *substitute* the following :— "3. The provisions of this Part shall apply— (*a*) to premises the standard rent of which exceeds Rs. 80 per mensem but does not exceed Rs. 250 in areas to which the Bombay Rent Restriction Act, 1939, is applicable, and Bom. XVI of 1939. (*b*) to premises the standard rent of which does not exceed Rs. 250 per mensem in other areas." |
| 2. (*i*) 22nd April 1942 to 15th June 1943, both inclusive. | In clause (3) of section 4, *delete* the words "in the City of Bombay, Poona City Municipal area, Poona Suburban Municipal area, Poona Cantonment area, and the Aundh Road area under the jurisdiction of the Bapodi Gram Panchayat near Kirkee, Poona, any building or part of a building let for any purpose other than storage of goods and elsewhere." |

SCHEDULE B—*contd.*

| Period. 1 | Modifications. 2 |
|---|---|
| (*ii*) 16th June 1943 to 20th July 1943, both inclusive. | In clause (3) of section 4, *delete* the words "Poona City Municipal area, Poona Suburban Municipal area, Poona Cantonment area and the Aundh Road area under the jurisdiction of the Bapodi Gram Panchayat near Kirkee, Poona." |
| 3. (*i*) 22nd April 1942 to 14th February 1943, both inclusive. | In the proviso to section 5, *delete* clauses (*b*), (*c*) and (*d*). |
| (*ii*) 15th February 1943 to 15th June 1943, both inclusive. | In the proviso to section 5, *delete* clauses (*c*) and (*d*). |
| (*iii*) 16th June 1943 to 20th July 1943, both inclusive. | In the proviso to section 5, *delete* clause (*d*). |
| 4. 22nd April 1942 to the date of publication of this Act. | In section 8, *delete* sub-section (*4*). |
| 5. 13th September 1943 to 3rd January 1944, both inclusive. | To section 9, *add* the following :— "*Explanation.*—The fact that a tenant has after 13th September 1943 sub-let the premises without the written permission of his landlord shall, notwithstanding anything contained in any law for the time being in force, be deemed to be a satisfactory cause within the meaning of the proviso to this section." |
| 6. 22nd April 1942 to 3rd January 1944, both inclusive. | *Delete* section 10. |

SCHEDULE C.

| Period. 1 | Modifications. 2 |
|---|---|
| 1. 1st May 1942 to 5th September 1943, both inclusive. | For section 16, *substitute* the following :— "16. The provisions of this Part shall apply to premises used or intended to be used for the storage of goods and for ancillary purposes." |
| 2. 1st May 1942 to the date of publication of this Act. | In section 21, *delete* sub-section (*4*). |
| 3. 1st May 1942 to 2nd July 1942, both inclusive. | *Delete* section 22. |
| 4. 1st May 1942 to 2nd July 1942, both inclusive. | *Delete* section 23. |

SCHEDULE D.

| Area.<br>1 | Date.<br>2 |
|---|---|
| City of Bombay and the limits of the Lonavala Municipal Borough including the Khandala area. | 16th May 1942. |
| Poona City and Poona Suburban Municipal Boroughs and Dhond Municipal district. | 9th June 1942. |
| Poona and Kirkee Cantonments | 7th July 1942. |

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## STATEMENT.

In pursuance of the provisions of rule 81 of the Defence of India Rules, 1939, the Government of Bombay made the Bombay Rent Restriction Order, 1942, the Bombay Storage Accommodation Rent Restriction Order, 1942, and the Hotels and Lodging Houses Control Order, 1942, in order to stabilise the supply at reasonable rates of accommodation whether residential or non-residential, furnished or unfurnished and with or without board in certain areas of the Province of Bombay. The Orders provided for an officer called "the Controller" to administer certain matters thereunder and to decide certain incidental disputes subject to an appeal to the Collector. In a recent case the Bombay High Court has held certain clauses of the Bombay Rent Restriction Order, 1942, which enabled the Controller and Collector to decide such disputes finally, as being in contravention of section 14 of the Defence of India Act, 1939, which requires an express provision to bar the civil courts' jurisdiction to decide such disputes. The same considerations would govern the other two Orders referred to above. It has, therefore, become necessary to enact a fresh law in the form of a self-contained Governor's Act in the matter of regulating the supply of accommodation. The present Bill is intended to achieve the purpose and also to help maintain administrative continuity by providing for retrospective operation.

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